

From: gcharles
To: Microsoft ATR
Date: 1/23/02 9:17pm
Subject: Microsoft Settlement

To: Dept. of Justice

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I am writing to voice my objections to the proposed settlement. I do not think that this settlement in any way punishes Microsoft for having blatantly abused monopoly power, or for disregarding the provisions of the previous agreement with the federal government. I have several issues with the currently proposed settlement:

The agreement fails to provide any penalty for Microsoft's past actions. This appears to show that Microsoft is beyond punishment because of its extraordinary political and economic power. What antitrust? With over 90 percent of the desktop operating system share they have the single largest market share held by any company in any significant industry in the last 50+ years. Microsoft used many unethical procedures to extend their monopoly. Most involved ways of punishing other companies should those companies dare to not comply with the Microsoft system. Microsoft should not be able to keep all the fruits of their illegal behavior. The penalties need to be a deterrent to future misbehavior of both Microsoft and other companies in their quest for market dominance. The lack of penalty for the financial windfall they've accrued is analogous to the court telling a bank robber that he shouldn't rob any more banks but that he can keep the proceeds for all previous successful heists.

The proposed oversight or compliance mechanism is virtually powerless. Microsoft's failure to abide by the spirit or the letter of the previous agreement shows that the proposed weak oversight system is inadequate. Indeed, the proposed mechanism for dispute resolution and/or compliance with the agreement embraces many of the worst features of such systems, operating in secrecy, lacking independence, and open to undue influence from Microsoft.

This is especially troublesome when Microsoft's current actions extend to other areas, especially their effort to dominate the Internet. They have entered into many agreements with other cable/telecom/internet firms to become a powerful force in this area. They can easily use secrecy of protocols for their software to force others to adopt their products. One requirement should be that any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet. Another requirement should be that the specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement. Some of the provisions in the settlement give Microsoft too much leeway to claim a security concern while in essence hiding some of the technical information needed for others to provide a competing alternative (Sections J.1 and J.2).

With regard to secrecy of protocols and APIs, the openly published letter from Ralph Nader listing his objections to the settlement includes specifically noted the objections to such secrecy. He specifically noted the detrimental effects on the "Free Software" movement, and discussed Microsoft's current and continuing offensive against the "Free Software" movement. I would like to support the objections raised

in that open letter. Microsoft is moving against Linux and other competing software and will use any excuse for secrecy of protocols to undermine any competition. The well reported efforts of senior Microsoft executive, esp. Gates, Allchin, and Ballmer, to undercut any potential for other people and firms to move to Linux is indicative of the concern about the availability of free access to what must be public protocols.

It is important to note that Microsoft has been found guilty of abusing monopoly power. Some changes proposed in the settlement are acceptable. Microsoft should not be allowed to differentiate price to different customers, period. They have abused this particular mechanism repeatedly to "punish" those firms that didn't fall in line with their wishes. Also all vendors should be permitted to include any competing software, including alternative operating systems in a dual or multiboot configuration. This will increase the potential for market penetration of Linux and other systems, and may eventuate in viable operating system alternatives. I need to run engineering programs that are available under a variety of "free" licenses. When I looked to buy a new computer recently I could not get a dual boot computer from any low cost vendor. They repeatedly noted that they could not provide dual boot machines under their current Microsoft license. This means that I must buy a machine from a custom vendor. While I support these vendors in principle, this does mean that the cost to me is several hundred dollars incremental cost over the equivalent from one of the low cost vendors. This differential is entirely due the restrictive Microsoft license.

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